

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MARK S. NELSON,

Plaintiff

Case No.: 3:20-CV-00164-RCJ-WGC

ORDER

v.

STATE OF NEVADA, *et al.*,

Defendants

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On May 20, 2020, the Court issued an order dismissing the complaint with leave to amend and directed Plaintiff to file an amended complaint within 30 days. (ECF No. 4). The 30-day period has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order. District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

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1 In determining whether to dismiss an action for lack of prosecution, failure to  
2 obey a court order, or failure to comply with local rules, the court must consider several  
3 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need  
4 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
5 favoring disposition of cases on their merits; and (5) the availability of less drastic  
6 alternatives. See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24;  
7 *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 Here, the Court finds that the first two factors, the public's interest in  
9 expeditiously resolving this litigation and the Court's interest in managing the docket,  
10 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also  
11 weighs in favor of dismissal, since a presumption of injury arises from the occurrence of  
12 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.  
13 See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public  
14 policy favoring disposition of cases on their merits—is greatly outweighed by the factors  
15 in favor of dismissal discussed herein. Finally, a court's warning to a party that his  
16 failure to obey the court's order will result in dismissal satisfies the "consideration of  
17 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;  
18 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file an amended  
19 complaint within 30 days expressly stated: "IT IS FURTHER ORDERED that if Plaintiff  
20 fails to file an amended complaint on or before June 22, 2020, the action may be  
21 dismissed." (ECF No. 4). Thus, Plaintiff had adequate warning that dismissal would  
22 result from his noncompliance with the Court's order to file an amended complaint within  
23 30 days.

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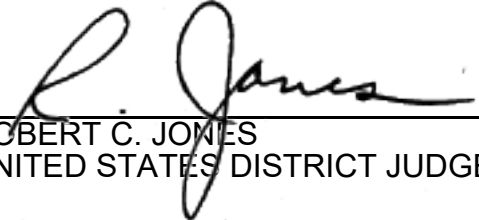
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1           **IT IS THEREFORE ORDERED** that this action is dismissed without prejudice  
2 based on Plaintiff's failure to file an amended complaint in compliance with this Court's  
3 May 20, 2020, order.

4           **IT IS FURTHER ORDERED** that the Clerk of Court will enter judgment  
5 accordingly and close this case.

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7           DATED this 2<sup>nd</sup> day of March, 2021.

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10           ROBERT C. JONES  
11           UNITED STATES DISTRICT JUDGE  
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